

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

November 8, 2012

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Owens, Chair; Eunice Beatty, Will Berkley, Mike Cravens, Lynn Roche-Phillips (arrived at 1:31 PM), Patrick Brewer (arrived at 1:37 PM), Frank Penn, William Wilson and Carolyn Plumlee. Carla Blanton and Karen Mundy were absent.

Planning Staff Present – Chris King, Director; Bill Sallee; Tom Martin; Barbara Rackers; Chris Taylor; Cheryl Gallt; Dave Jarman and Denice Bullock. Other staff members in attendance were: Chuck Saylor, Division of Engineering; Captain Charles Bowen, Division of Fire and Emergency Services; Jeff Neal, Division of Traffic Engineering; Tim Queary, Department of Environmental Quality and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair noted that there were no prior Planning Commission meeting minutes to be considered at this time.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

1. **DP 2012-89: NEWMARKET PROPERTY, PH 1, UNIT 10 (1/29/13)*** - located at 1501 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Representation – Richard Murphy, attorney, was present representing the applicant, and requested postponement of DP 2012-89 to the December 13, 2012, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson and carried 7-0 (Blanton, Brewer, Mundy and Roche-Phillips absent) to postpone DP 2012-89: NEWMARKET PROPERTY, PH 1, UNIT 10 to the December 13, 2012, Planning Commission meeting.

Note: Ms. Roche-Phillips arrived at this time.

2. **CT 2012-1** – An application for construction of a 199' cellular tower monopole in the Agricultural Rural (A-R) zone, at 1811 Iron Works Pike.

Staff Comment – Ms. Rackers said that the staff had received communication from the applicant's representative, requesting postponement of CT 2012-1 to the December 13, 2012, Planning Commission meeting. Mr. Sallee added that the staff had distributed a memorandum to the Commission regarding that request for postponement. (A copy is attached as an appendix to these minutes).

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Plumlee and carried 8-0 (Blanton, Brewer and Mundy absent) to postpone CT 2012-1 to the December 13, 2012, Planning Commission meeting.

3. **DP 2012-91: MICHAEL GENTRY, DVM PROPERTY, LOT 2 (AMD) (12/30/12)*** - located at 101 Sand Lake Drive.
(Council District 7) **(Midwest Engineering)**

Staff Comment – Mr. Martin said that the staff had received a communication from the applicant's representative, requesting postponement of DP 2012-91 to the December 13, 2012, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn and carried 8-0 (Blanton, Brewer and Mundy absent) to postpone DP 2012-91: MICHAEL GENTRY, DVM PROPERTY, LOT 2 (AMD) to the December 13, 2012, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 1, 2012, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Frank Penn, Mike Owens, Carolyn Plumlee and Karen Mundy. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Chris Taylor, Dave Jarman, Denice Bullock, Barbara Rackers, Cheryl Gallt,

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Cindy Deitz and Kenzie Gleason, as well as Captain Charles Bowen, Division of Fire & Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

A. CONSENT AGENDA - NO DISCUSSION ITEMS – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2012-114P: HOUGHAM PROPERTY (12/30/12)* - located at 1100 Alexandria Drive.
(Council District 12) **(Eagle Engineering)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Department of Environmental Quality's approval of environmentally sensitive areas.
 7. Correct plan title.
 8. Correct date of preparation.
 9. Denote record plan information for property on plan.
 10. Denote name and address of property owner and developer.
 11. Denote private utility providers.
 12. Darken topographic lines shown.
 13. Denote right-of-way acreage and lineal feet of right-of-way.
 14. Resolve emergency access to Alexandria Drive to the approval of the Divisions of Fire and Traffic Engineering.
 15. Denote tree protection areas proposed along site periphery.
 16. Correct notes #5 and #9.
2. PLAN 2012-103F: FULLER ET AL. & MEADOWTHORPE COMMUNITY BUSINESS CENTER, UNIT 1 (AMD) (12/3/12)* - located at 1315 and 1317 West Main Street. (Council District 2) **(2020 Land Surveying)**

Note: The Planning Commission postponed this plan at their October 11, 2012 meeting. The purpose of this amendment is to subdivide 1315 and 1317 West Main Street into three lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Addition of north arrow.
7. Correct owner's certification (misspelled word).
8. Addition of utility easement to 10' building line.

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3. PLAN 2012-115F: MAHAN PROPERTY, UNIT 1-B, SECTION 2 (12/30/12)* - located at 441 - 449 Madison Point Drive.
(Council District 9) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.

4. PLAN 2012-116F: SHARKEY PROPERTY, UNIT 3, SECTION 4 (12/30/12)* - located at 1700 Leestown Road.
(Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Urban Forester's approval of tree protection area(s) and required street tree information.
5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Add tree canopy square footage calculations to existing note and identify planting required on Lots 43-50.

5. DP 2012-88: CLARK PROPERTY, UNIT 3 (1/29/13)* - located at 1551 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: This property requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan and required street tree information.
 6. Department of Environmental Quality's approval of environmentally sensitive areas.
 7. Delete note #13.
 8. Denote location of cross-section for Polo Club Boulevard on plan.
 9. Denote TPA area(s), if any.
 10. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
 11. Dimension proposed easements.
 12. Denote that exaction fee amounts shall be determined at the time of Final Record Plat, to the approval of the Division of Planning.
 13. Resolve parking restrictions or the need for a wider cross-section on Sweet Clover along Lots 6, 7, 43 and 42.
6. DP 2012-90: PRESTON ADDITION SUBDIVISION/ERIKA L. STRECKER PROPERTY (12/30/12)* - located at 609 – 613 W. Third Street and 256 Newtown Pike. (Council District 2) **(Perkins Landscape)**

Note: This property requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Remove extraneous notes #8 and #10.
10. Remove "Land Surveyor's Certification" from "origin of bearings" note title.
11. Resolve landscape buffering for R-2 use to the east.
12. Denote sanitary sewer easement to the approval of the Division of Engineering.
13. Add required engineering manual note.
14. Resolve the need and possible location for pedestrian crosswalk on W. Third Street.

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15. Denote replacement of sidewalks to the approval of Traffic Engineering.
7. DP 2012-92: BELLEAUWOOD SHOPPING CENTER (TATES CREEK SHOPPING CENTER) (AMD) (12/30/12)* - located at 4191 Tate's Creek Centre Drive. (Council District 4) **(The Roberts Group)**

Note: The purpose of this amendment is to increase the square footage and buildable area on Lot 2.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Division of Fire's approval of emergency access and fire hydrant locations.
 8. Division of Waste Management's approval of refuse collection.
 9. Denote pedestrian access connection from sidewalk to building entrance on Lot 2.
 10. Addition of building dimensions on Lot 8 from recent amendments.
8. DP 2012-96: HARRODS HILL ESTATES, UNIT 2H, SEC. 1, #76 (1/12/13)* - located at 3475 Lyon Drive. (Council District 10) **(Stidham Commercial Partners, Inc.)**

Note: The purpose of this amendment is to increase the building floor area by 143 square feet on Unit 76.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Department of Environmental Quality's approval of environmentally sensitive areas.
 7. Clarify that addition will be 15' from sidewalk (ROW).
9. DP 2012-97: CHESAPEAKE EQUINE (1/12/13)* - located at 1024 Greendale Road. (Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire's approval of property access details and fire hydrant locations.
10. Division of Waste Management's approval of refuse collection.
11. Denote record plat designation Cabinet "N" Slide "326."
12. Addition of street and access easement cross-section.
13. Addition of conditional zoning restrictions from previous plan.
14. Denote access point on the other side of Greendale Road.
15. Dimension clubhouse building.
16. Adjust 20' setback on southern boundary to meet Article 9 requirements.
17. Delete proposed right-of-way for cul-de-sac into property or label as a private street.
18. Resolve access connection to Greendale Road.
19. Eliminate building envelope conflict with 100' KU transmission easement.
20. Delineate pond/detention basin limits on plan.
21. Review by Technical Committee prior to plan certification.

Note: Mr. Brewer arrived at this time.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion. He noted that the staff had received the required affidavit for the posting of a sign for DP 2012-88: CLARK PROPERTY, UNIT 3 and DP 2012-90: PRESTON ADDITION SUBDIVISION/ERIKA L. STRECKER PROPERTY and added that they appeared to be in order.

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Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Mr. Penn requested that DP 2012-97: CHESAPEAKE EQUINE be removed from the Consent Agenda to allow further discussion.

Action - A motion was made by Mr. Penn, seconded by Mr. Brewer and carried 9-0 (Blanton and Mundy absent) to approve the remaining items listed on the Consent Agenda, removing DP 2012-97: CHESAPEAKE EQUINE.

B. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

1. PRELIMINARY SUBDIVISION PLANS

- a. PLAN 2012-101P: TUSCANY, UNIT 8 (12/3/12)* - located at 1970 Winchester Road.
(Council District 6) **(EA Partners)**

Note: The Planning Commission postponed this plan at their October 11, 2012 meeting.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and required street tree information.
6. Denote construction access location.
7. Addition of street right-of-way acreage to site statistics.
8. Resolve addition of tree protection areas and possible utility easement conflict.
9. Discuss existing and proposed "A-A" cross-section on Battery Street, and Comprehensive Plan recommendation for a collector street.

Staff Presentation – Mr. Sallee presented the preliminary subdivision plan for Tuscany, Unit 8, located at 1970 Winchester Road. He noted that the staff had previously distributed several staff exhibits, including a draft revision to condition #9 and two additional conditions. He added that, in the staff's review, it was discovered that a waiver to Article 6-8(q)(2)(d)(5) of the Land Subdivision Regulations was also necessary for this proposal.

Mr. Sallee presented a portion of the 2007 Comprehensive Plan (Land Use Element) on the overhead, and explained the location of the subject property, as well as the nearby landmarks in the area. He noted that the subject site is near Winchester Road, New Circle Road and I-75, and this area is recommended for medium density residential use. He then said that there is a signalized light at the intersection of Winchester Road and Patchen Wilkes Drive, adding that the Comprehensive Plan shows Patchen Wilkes Drive extending to Fortune Drive and on to Trade Center Drive.

Mr. Sallee then presented two aerial photographs to the Commission to further orient them to the overall area and to the surrounding street system. He explained that the subject property would be accessed from Patchen Wilkes Drive, just off Winchester Road. He then said that Battery Street, which currently exists on Unit 4, would cross Patchen Wilkes Drive and extend into Unit 8. He added that Patchen Wilkes Drive would also extend to the east toward Fortune Drive and would connect to Trade Center Drive. The current conditions on the subject property consist of farm land and tree stands.

Mr. Sallee directed the Commission's attention to the rendering, and said that this preliminary subdivision plan is proposing 115 single family residential lots on 25.5 acres of land that is zoned R-3. He added that the area immediately to the north, which is known as the Summerfield Subdivision (aka Tuscany, Unit 4), is also zoned R-3. He said that Battery Street currently stubs into Unit 8 and is proposed to extend southeast into the subject property

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toward a future connection of Trade Center Drive. He added that Patchen Wilkes Drive will also extend the length of one lot and will connect to a local street where there will be two cul-de-sacs at each end. He said that Battery Street will be the primary extension of the street system, and the remaining streets would be considered local streets and cul-de-sacs.

Mr. Sallee said that this request was first submitted in late October, and today's rendering is a revised plan that was presented to the Subdivision Committee on November 1st. He then said that some of the changes made to this request since the first submission include the single family lotting, the bounds of the plan shifting slightly to the northwest, and the street cross-sections that are now proposed to be a 50-foot right-of-way with a 28-foot-wide street. This would leave a 7 foot utility strips and a 4 foot sidewalk on each side. He said that the cross-section of Battery Street has also changed; now showing a 62-foot-wide street with 42 feet of pavement and 5.5 foot utility strip and 5 foot sidewalk. Mr. Sallee said that the tree protection areas have been added to the revised submission and there are existing tree stand between the existing subdivision and the subject property, as well as proposed tree stands shown on the rendering.

Mr. Sallee said that the existing conditions on site are very different from what is being shown in the photographs. He then said that the staff believed this proposal had one issue and that was the cross-section of Battery Street where it stubs into the subject property. The stub street has been built and approved as a 50-foot-wide street with a 31-foot pavement from curb to curb. He said that there is a 5.5-foot utility strip with a 4-foot sidewalk. He then said that the two lots on each side of the stub have been completed, and their driveway access is off the stub. The staff is concerned with this continuation of the collector street into the proposed site. He said that the 2007 Comprehensive Plan had proposed Patchen Wilkes Drive to extend, making the connection to Trade Center Drive; but due to the topographic issues in this area, the applicant is proposing to end Patchen Wilkes Drive as a cul-de-sac and connect Battery Street to Trade Center Drive. He then said that the 2007 Comprehensive Plan language for collector street systems states that "to help assure adequate connections to the major road system, existing and proposed collector roads are shown on the detailed land use maps. They illustrate approximate locations that will be refined during the development review process and to be constructed as part of the development." He added that, in essence, the decision of the Planning Commission is to approve the collector street extension. The difference with this request is between the location that is shown on the 2007 Comprehensive Plan and what is being shown on this request.

Mr. Sallee directed the Commission's attention to a series of site photographs, and gave a brief description of each. He added that these pictures were both pre- and post-development of the area. He presented a picture of the subject site before development occurred, but after the intersection of Patchen Wilkes Drive and Battery Street was built. He added that the stub of Battery Street is shown extending into the adjacent property. Mr. Sallee then presented the next two photographs, noting that this is a view of the Patchen Wilkes Drive and Battery Street intersection looking toward Winchester Road. He said that this area has been under constructions for 2 years, and there are not many vacant lots remaining. He explained that Patchen Wilkes Drive is a collector street, which has a width of 62 wide from back of sidewalk to back of sidewalk, 41 feet from back of curb to back of curb. He said that Patchen Wilkes Drive is wide enough for off-street parking and two way directional traffic. Mr. Sallee then presented a picture of Patchen Wilkes Drive, looking southwest toward Trade Center Drive. He said that the width of the street is still 41 feet from back of curb to back of curb, and the applicant is proposing to extend Patchen Wilkes Drive by one lot, which would then "T" into the local street. Mr. Sallee directed the Commission's attention to the remaining photographs, showing the Battery Street stub extension toward the subject property. He said that the two lots on either side are developed with their driveways and garages facing on the stub street. He then said that the details of the cross-section are 62' wide street with 41' of pavement and 5' 5" utility strip and 4' sidewalk. He then said that in reviewing the Patchen Wilkes Drive photographs, the streets are finished and most of the street trees have been planted.

Mr. Sallee directed the Commission's attention to the staff exhibits (#3-#7), and explained that the applicant is proposing to retain the current cross-section for Patchen Wilkes Drive and Battery Street, which is 50' wide street with 31' of pavement and 5' 5" utility strip and 4' sidewalk. He then said that the applicant has also proposed that a portion of the Battery Street stub would have signage posted to designate this area as a "no parking" area, along with providing between 200-300 feet for a transition area into the proposed site. Mr. Sallee said that in reviewing the Land Subdivision Regulations, the staff was concerned with their proposal since this area was planned to complete a collector system from Trade Center Drive to Winchester Road. He then said that the minimum width for a collector street is 37 feet from curb to curb, but the staff is recommending that the cross-section be changed from its current measurements of 50/31 feet to 50/37 feet. This would be very unusual, but it would allow the minimum pavement width for a collector street to be accomplished for this area. He said that this would mean that the current curbs would be removed and moved closer to the sidewalk, which would result in the width of the utility strip being reduced to 2.5 feet, but it would retain the 4-foot sidewalks. He added that, since there are already two driveways along this stub, the width of the apron would also be impacted. Mr. Sallee said that this type of request is unusual but it would provide an easier transition between the existing development and the proposed development.

Mr. Sallee said that the Land Subdivision Regulations require a street to be at a specific depth, depending on the type street (i.e., local street or a collector street). He then said that the asphalt base course for a local street is required to be 1" in depth, 3" of asphalt base, and 9" of granular base; whereas, a collector street is 1" in depth, 6" of asphalt base, and 8" of granular base. The applicant has stated to the Division of Planning and the Division of Engineering

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that they are agreeable to make this section meet the depth of a collector street. The implication with this suggestion would be that the curbs would no longer be sufficient due to the additional 3 feet of paving being added to the street. He said that those curbs would need to be replaced, which would allow an opportunity for those curbs to be moved outward, resulting in a minimal 37' width of a collector street. He then said that, for those reasons, the staff believes this recommendation is not out of bounds.

Mr. Sallee then directed the Commission's attention to the staff exhibit #8, and said that when this request was first submitted, Battery Street was being shown as a local street. The spacing from Patchen Wilkes Drive to the first local street was 290 feet, which is in compliance with the Land Subdivision Regulations. He then said that if this section is made into a collector street, then the minimum standard increases to 400 feet. This would result in the length of the street being extended one lot depth, and would need a waiver to Article 6-8(q)(2)(d)(5) of the Land Subdivision Regulations. He said that the staff recommends approval of the waiver for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant, as the spacing is mostly due to the change in Battery Street from a local street to a collector street. A total redesign of the lotting pattern would be necessitated without approval of this waiver.
2. The granting of the waiver will not negatively impact public health and safety, due to the overall design and proposed connectivity of the local street system in this development, and since it might also result in "traffic calming" to the extension of the Battery Street collector street.

Mr. Sallee concluded by saying that the staff is recommending approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and required street tree information.
6. Denote construction access location.
7. Addition of street right-of-way acreage to site statistics.
8. Resolve addition of tree protection areas and possible utility easement conflict.
9. ~~Discuss existing and proposed "A-A"~~ Revise "C-C" cross-section on Battery Street, and Comprehensive Plan recommendation for a collector street provide a 50/37 cross-section without street tress in right-of-way.
10. Denote that there will be no driveways to Battery Street from Lots 1, 35, 91 and 115.
11. Provided the Planning Commission grants a waiver to Article 6-8(q)(2)(d)(5) of the Land Subdivision Regulations.

Planning Commission Questions – Mr. Brewer asked if the additional paving would be 3" or 3'. Mr. Sallee said that the additional paving would be 3 inches in depth. Mr. Brewer said that the difference in asphalt is 3 inches above the existing curb and would seem not to be a big deal. He asked what would be the benefit of raising this section of the road for it to meet the requirements, versus having it meet the curb. Mr. Sallee said that, as of now, the curb is planned to be flush with the asphalt and the gutter of the curb. If the depth is increased by 3 inches it would create a rut between the asphalt and the curb, which would compromise the life of the asphalt. Mr. Brewer asked what the damage would be if the existing asphalt remains as is. Mr. Sallee said that the only issue would be the performance of the life of the asphalt and the amount of traffic that a collector street has, versus a local street. Mr. Brewer asked how long would it take to show damage for this small section of road. Mr. Sallee said that the staff does not know what the life difference would be between adding or not adding the 3 inches of asphalt.

Ms. Roche-Phillips said that this request stems from the applicant changing the collector street from Patchen Wilkes Drive, which was designed at the appropriate width and depth, to Battery Street. She said that Battery Street is already substandard in terms of width and pavement depth. Mr. Sallee said that Battery Street is a local street that ends in a cul-de-sac, and it functions as a cul-de-sac. He then said that the collector street would function with a multi-way stop leading into a 90-degree curb that would proceed out to Winchester Road. Ms. Roche-Phillips said that it seems to be more expensive to have Battery Street become a collector street then continue Patchen Wilkes as the Comprehensive Plan had intended. Mr. Sallee said that, in reviewing the topography in this area, the staff understands the applicant's justification.

Mr. Owens asked if the topography in this area was considered when the plan was first proposed. Mr. Sallee said that the plan is about 6 years old, and the staff can not remember what had transpired during that time.

Representation – Rory Kahly, EA Partners, was present representing Tim Haymaker, the developer. He said that in 2003 the Commission approved the zone change for this property; and, at that time, the layout of the overall street system was very close to what the Comprehensive Plan was recommending. However, there is a 30-foot elevation change, as well as a gas transmission line in this area. He said that they believed they could raise the line without much hassle, but that is not the case. He then said that to change that line is very expensive, and trying to make the collector street connection with the 30-foot elevation is an additional issue. Mr. Kahly said that Battery Street seemed to be the next logical place to make that connection, and they are agreeable to retaining the curbs and replacing the existing asphalt to allow the transition into the next development. He added that they are working with the two property owners and have suggested signing this section as a "no parking area." He said that widening the curbs, decreasing the utility strip and removing the street trees could be an issue with the property owners and their lots. He then said that the property owner's lots could be drastically impacted from the conditions the lots were in at the time

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of purchase. He added that their driveway, street trees and so forth would be changed and they are trying not to impact the homeowners.

Planning Commission Questions – Mr. Penn asked if the width of Battery Street width and the collector street width would create a choke point. Mr. Kahly explained that the intersection of Patchen Wilkes Drive and Battery Street would be a stop condition; and as Battery Street moves into the new development, a small section would be narrower and would then transition back to the width of the collector street. Mr. Penn asked if there is no parking on this section, if it would not create an issue. Mr. Kahly said that there is still 31 feet of drivable space and enough room to make a turn, so there is no need for an additional turn lane. Mr. Penn said that the turn radius would not be a problem. Mr. Kahly said that a turn radius whether it is a collector street or a local street stays the same.

Mr. Cravens said that if enough asphalt is removed, it can be made as a collector street not impacting the curb. Mr. Kahly said that the existing asphalt can be removed along with an additional 3 inches and filled back to collector street standards. Mr. Cravens said that this would bring the asphalt back to its original depth. Mr. Kahly said that the road would be cut 3 inches deeper and more asphalt added.

Mr. Cravens said that the layout of the proposed street system could be confusing and asked if signage could be added to help direct people through this area. Mr. Kahly said that a 4-way stop could be added to help notify them. He then said that the proposed street layout could help prevent commercial traffic from entering the neighborhood.

Mr. Owens said that the applicant was agreeable to the conditions as presented by the staff; however, regarding condition #9, they are not comfortable with the 50/37 cross-section. Mr. Kahly said that the 50-foot width is staying (back of sidewalk to back of sidewalk), but they are not comfortable in changing to 37 feet from back of curb to back of curb.

Mr. Owens asked for comments from the Division of Traffic Engineering. Mr. Neal said that the first option would be to widen this section to match it to the existing street and make it more identifiable. He then said that the second option is to omit parking for the area without city involvement, and the applicant is working with the current property owners to achieve this goal. Mr. Owens asked if Traffic Engineering is comfortable with the recommendation of 50/37 versus the 50/31 cross-section. Mr. Neal said that the preferred recommendation would be to widen the curbs; but what the applicant had proposed, and omitting the parking, would work.

Rebuttal - Mr. Haymaker said that he wants to make this area the best place to live and he would not harm a community. He then said that the housing market is different so they have decreased the lots from 70-foot to 50-foot lots. He added that his concern with the recommended street layout was the commercial traffic from Trade Center Drive coming through this community to Patchen Wilkes Drive. He said that he is in favor of traffic calming and having a long stretch of road would not achieve this goal. He understands connectivity, but at this point the street layout for 500+ acres is unknown. Mr. Haymaker said that there are walls and trails in this area to consider, and it is important to offer as much as possible to the new homeowner. He then said that, due to the topography of the land, it would have cost \$3,000,000 to relocate the 62-year-old gas line. He added that with regards to street signage, they can place “no outlet” and directional signage to help direct the traffic.

Mr. Haymaker said that by decreasing the width of Battery Street, just prior to Patchen Wilkes Drive, would help with traffic calming in this area. He then said that they do not want to cause the new property owners any hardship by changing their property elevation. He added that they have to warrant these roads, and they would make this section of Battery Street the full depth, and should there be any problems, they would immediately deal with that issue.

Planning Commission Questions – Mr. Penn asked the difference between elevations of the locations for crossing the gas line. Mr. Kahly said that there is a draw that runs adjacent to the future connection of Trade Center Street; and if the connection to Trade Center Drive was made at Patchen Wilkes Drive there would have been at least 30 feet of fill to make the turning radius. Now there is a natural grade change if the connection is made from Battery Street. Mr. Penn clarified that the difference is if the connection is made at Patchen Wilkes Drive, then the gas line would be impacted; but if the connection was made from Battery Street, then the gas line is not impacted. Mr. Kahly replied affirmatively. Mr. Penn asked if Battery Street is made a collector street, and as the area develops this problem happens again, where the street would lead. Mr. Haymaker said that the next section of development could resolve that issue. He then said that his concern with making that connection is the 30 feet of fill that would be needed, as well as the 18-wheelers coming through this neighborhood where there will be children living.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Discussion – Mr. Brewer said that what the applicant is proposing is appropriate and he would be in favor of making a motion for approval.

Ms. Beatty asked if there is a master plan for the layout of the street system. Mr. Sallee said that according to the Comprehensive Plan, Patchen Wilkes Drive would be the collector street connecting into Trade Center Drive. It was not until this plan was filed the staff was informed that there was an issue.

Mr. Penn said he understands that this area will be developed; but what he does not understand is constructing the collector street one section at a time, especially if the design layout changes again. He then said that there needs to be some type of plan to keep the proposed collector street by designing the lot layout around those collector streets. He added that building these streets piece by piece will create a choke point as it did with Saron Drive. Mr. Sallee said that the staff understands his concerns; and, with this development, the question has been how to get the Patchen Wilkes Drive stub to connect with the Trade Center Drive stub.

Mr. Brewer asked for clarification to condition #9. Mr. Sallee said that the Commission could adopt condition #9 as it was written by the staff, or delete condition #9 as it was suggested by the applicant.

Action - A motion was made by Mr. Brewer, seconded by Mr. Cravens, and carried 9-0 (Plumlee abstained; Blanton and Mundy absent) to approve PLAN 2012-101P: TUSCANY, UNIT 8, subject to the conditions as presented by the staff, deleting condition #9, and granting the waiver to Article 6-8(q)(2)(d)(5) of the Land Subdivision Regulations, for the reasons provided by the staff.

- b. PLAN 2012-113P: TUSCANY, UNIT 9 (12/30/12)* - located at 1970 Winchester Road (a portion of).
(Council District 6) **(EA Partners)**

The Subdivision Committee Recommended: Postponement. There are several internal street issues that need to be addressed concerning street connectivity, patterns and stub streets to undeveloped residential areas.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan and required street tree information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Discuss connections to future development areas to the northeast and southwest.
8. Discuss timing of street connectivity to Battery Street.
9. Discuss proposed street pattern and the number of lots served by only one access.
10. Discuss plan boundaries.
11. Discuss electric utility crossing of existing gas easement.

Staff Presentation – Mr. Taylor presented the preliminary subdivision plan proposed for Tuscany, Unit 9 for property located on a portion of 1970 Winchester Road. He noted that the Commission had previously reviewed the plan or Tuscany, Unit 8, which is proposed to connect to Unit 9. He directed the Commission's attention to the latest submission, and oriented them to the subject property and to the nearby street system. He said that this preliminary subdivision plan is proposing to build 204 buildable lots on 45.96 acres. These lots would be located just off Battery Street, which is located off Patchen Wilkes Drive, southwest of Winchester Road. He then said that this proposal shows two future connections to Trade Center Drive, which would connect to Villa Medici Pass. He added that Villa Medici Pass would also have a connection to Old Rosebud Road and Sir Barton Way. Mr. Taylor said that there is a gas easement that runs through the center of this proposed development.

Mr. Taylor said that the Subdivision Committee had recommended postponement of this request. There were several internal street issues that needed to be addressed concerning the street connectivity, the patterns and the stub streets to undeveloped residential areas. He directed the Commission's attention to the meeting agenda, and said that conditions #1 through #6 are standard sign-off conditions from the different utilities and divisions of the LFUCG. He then gave a brief explanation of conditions #7 through #11, and said that conditions #7, #8 and #9 are related to the future connections, the timing of those connections and the street pattern. These issues concern the staff the most. He said that the major concern is regarding the connections to future development areas to the northeast and southwest. He said that in reviewing the applicant's proposal there is approximately 3,000 square feet of area between Winchester Road and the future Trade Center Drive that will not have connectivity. The staff does understand that the applicant wishes to have a multi-use trail near the Winchester Road area, but there is a need for street connections into the future development for this area. Mr. Taylor said that the staff is also concerned with the timing of street connectivity to Battery Street, the proposed street pattern and the number of lots that would be served by only one access. He then said that Unit 9 can not be developed until the connection is made for Battery Street on Unit 8. He added that Battery Street is the only street connection that would serve the 204 lots. He said that with only one access to serve the entire development, the staff is concerned with the overall timing of these connections. Mr. Taylor indicated that condition #9 has been resolved by the applicant. He said that condition #10 came about through the Technical Committee Review, and it was noted at that time there was a concern with the electric utility crossing of the existing gas easement. He then said that this issue would need to be resolved prior to the plan being certified and moving forward.

Planning Commission Questions – Mr. Wilson asked if the future connection of Battery Street would have a stop sign or a signalized light. Mr. Taylor said that the future connection of Battery Street to Trade Center Drive is not

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anticipated to be heavy in traffic and would not have traffic calming devices installed. He then said that the intersection of Battery Street and Patchen Wilkes Drive would have traffic calming in place.

Ms. Roche-Phillips said that, with the path of the gas line easement and the layout of the proposed lots, some of the lots would be compromised. Mr. Taylor said that there is buildable area on each of those lots. He then said that most of these lots are deep in size and there would be a homeowner's association lot to accommodate the easement. Ms. Roche-Phillips said that it appears that the applicant had taken the gas line into consideration when designing the layout of these lots, but in some areas the layout is a mess. Mr. Taylor said that one reason was due to the topography of the land, adding that there is a draw that drains the water toward the center of the development; and another reason is the gas line easement. Ms. Roche-Phillips asked if those lots have enough buildable areas, to which Mr. Taylor replied affirmatively. Ms. Roche-Phillips said that it appears that the gas line is bisecting some of the lots. Mr. Taylor said that there is no question that some of the lots would be constrained, but there is enough buildable area on each of these lots.

Mr. Owens asked if there would be two accesses onto Battery Street. Mr. Taylor replied affirmatively. Mr. Owens then asked if there would be access to Sir Barton Way from this development. Mr. Taylor replied affirmatively. Mr. Owens then asked about the length of the unbuilt section. Mr. Taylor said that the unbuilt portion to the future connection is approximately 300 feet. Mr. Owens asked if there is only 300 feet of street that would not be built. Mr. Taylor replied negatively, and said that the entire undeveloped area between Sir Barton Way and Old Rosebud Road is not built.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that the proposed street system for this request was based upon comments made by the Technical Committee. They had indicated that they want one more connection for this site and they redesigned the street system into a continuous loop, resulting in two accesses onto Battery Street. He briefly explained the layout of the entire development, and noted which units have been approved by the Commission and are being developed. He said that the units are being developed in different direction in order to not overload the street system as it is built. He then said that as each unit is built, the connections are made, and eventually all connections would meet in the middle.

Mr. Kahly said that Joe Oakley, Kentucky Utilities, had spoken at the Technical Committee meeting, and he was very adamant about the concerns of electric lines being located so close to the existing gas line. He then said that as for the proposed street pattern, the Technical Committee had requested the additional connection, and with Unit 8 just approved by the Commission, a connection can be made from Battery Street to Unit 9. With that being said, Mr. Kahly requested approval of this request.

Planning Commission Questions – Mr. Cravens asked where the homeowner's association lot is located. Mr. Kahly pointed out the homeowner's lot on the rendering, and said that there are draws on this site and the lowest part of the land was made the HOA lot.

Ms. Roche-Phillips said that the Subdivision Committee had reviewed this request; and she recognized that this property was rezoned several years back, but the overall design shows many cul-de-sacs. She believed that cul-de-sacs were going to be eliminated to create street connectivity throughout the neighborhoods, as noted in the Complete Streets manual. Mr. Sallee said that the staff had reviewed this request, looking to make the cul-de-sacs on one side of the property connect; but with the draw on the property it is not possible. He then said that there is a severe topographic situation that limits the way the streets are connected, and it would result in the intersection being off-set.

Mr. Penn asked how deep the gas line is. Mr. Kahly said that, depending on the location, the gas line is at different depths. Mr. Penn then asked about the minimum depth for the gas line. Mr. Haymaker, developer of the property, said that the gas line is a transmission line and not a secondary line; therefore, it must meet the Public Service Commission regulations. He then said that they have not changed the topography of the area from when the gas line was first installed. Mr. Penn said that he has seen the pipe being replaced, and it looks as if the pipe is deep in the ground. He then said that he understands the limitations with the topography; but as Ms. Roche-Phillips had pointed out, a lot of time had been spent discussing street connectivity. In reviewing this request, there is one way in and one way out, which is what the Commission is trying to avoid. Mr. Penn asked if this type of street design would be used for this entire development. Mr. Haymaker said that the difficulty with a 10-year-old plan is that things can change dramatically. He then said that there are multiple issues on this site, including making a large piece of land a public service area, as well as a full running stream that would require crossings. They can not say what would be built because their plans may have to keep changing.

Mr. Brewer said that his family, as well as his neighbors, had purchased their homes because it was on a cul-de-sac. Cul-de-sacs allow resident's children to play in the streets, since they can not play on a major street system. He believes that the cul-de-sac is a good trade-off, and it helps keep people from speeding or cutting through the neighborhood.

Mr. Berkley said that, in his type of work, neighborhoods desire these types of pods; and they are willing to pay the premiums for this type of development.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Discussion – Mr. Owens asked if condition #10 had been resolved. Mr. Taylor said that the staff believes it has been resolved, considering that the area related to the boundaries was not part of the submission. Mr. Owens asked if condition #11 had been resolved. Mr. Taylor said that it will have to be resolved before the plan is certified. He then said that the staff is comfortable in changing condition #11 to read “Resolve electric utility crossing of existing gas easement.” Mr. Taylor said that the staff’s main concerns were conditions #7, #8 and #9.

Mr. Owens asked if Mr. Kahly had anything to add regarding the conditions #7, #8 and #9. Mr. Kahly replied that he had nothing to add. Mr. Owens then asked if conditions #7, #8 and #9 been resolved. Mr. Brewer said that those conditions have been discussed.

Ms. Plumlee said that for a development to be at this stage and for the applicant to not know the depth of the gas line concerns her. She asked, when these lots are placed on the market, if the new prospective homeowner will know that there is a gas line on the property or the possible consequences. Mr. Haymaker said that the gas line is marked so everyone will know the location. He then said that, as for the depth of the gas line, Columbia Gas can not say how deep the gas line is. He added that the gas easement is 75 feet wide and they will not endanger a family by placing their home adjacent to on this easement.

Mr. Owens asked if the staff had anything further to add. Mr. Taylor said that the design of the cul-de-sacs is due to the topography of the area; however, the staff’s biggest concern is the lack of connection to the future development toward Winchester Road.

Action - A motion was made by Mr. Brewer, seconded by Mr. Cravens, to approve PLAN 2012-113P: TUSCANY, UNIT 9.

Discussion of Motion – Mr. Cravens asked what happens to conditions #7 through # 11. Mr. Brewer said that the Commission had discussed these issues and asked if those remain as is. Mr. Sallee said that if the Commission is satisfied with this discussion those conditions can be deleted. Mr. Brewer stated that he is in agreement.

Amended Motion – An amended motion was made by Mr. Brewer, seconded by Mr. Cravens, to approve PLAN 2012-113P: TUSCANY, UNIT 9, subject to the conditions as presented by the staff.

Discussion of Motion – Mr. Penn said that the connectivity can not just be discussed and left alone, especially for the multi-use trail connectivity. He then said that there should be some way to make a connection into the future development. Mr. Brewer asked if condition #7 should read: “Resolve connections to future development areas to the northeast and southwest.” Mr. Penn replied affirmatively. He then said that the timing of Battery Street needs to be discussed as well, since that is the way traffic will enter and exit this development. Mr. Brewer asked if the motion on the floor needs to be withdrawn. Mr. Wilson replied affirmatively. Mr. Brewer retracted his motion to allow further discussion on the issues that were raised. Mr. Cravens retracted his seconding of the motion.

Ms. Beatty said that she believes that conditions #7 through #11 could be changed to “resolve,” which would then require a follow-up that needs to take place with this development. Ms. Roche-Phillips agreed with Ms. Beatty. Mr. Owens said that he would tend to agree, as well. He then said that condition #10 had been resolved and could be deleted from the recommendations. Mr. Kahly said that there is an existing farm lane along the boundary of this site and, as stated during the zone change hearing, a portion of that area would be designated as pedestrian connection and would remain. He then said that, as the future development is constructed, there would also be pedestrian connections added and there would not be vehicular traffic along the 3,000-foot stretch. He asked if condition #7 is changed to “resolve” if that means that those connections must be made, even though that is not what they are proposing. Mr. Owens said that the Division of Planning and the Division of Engineering and the applicant would need to come to an agreement. He then said that, personally, this request needs more work, and suggested that this request be continued to the December meeting.

Ms. Beatty agreed, and said that this request should go back to allow the staff and the applicant to resolve some of these issues. Mr. Sallee said that the Commission has until the end of the year to either approve or deny this request.

Mr. Penn suggested postponing this request to allow these issues to be resolved. He said that the issue is how to exit the development. Mr. Taylor said that this is the first time the staff has been able to discuss the issue of connection, which is why they recommended postponement. He then said that conditions #7 and #8 can be changed, but the staff would prefer the language to include at least one connection. He added that the staff is in agreement with the Commission postponing this item one month. Mr. Sallee said that by changing condition #7 to “resolve connections,” the staff’s preference would be to have one connection; but if it is a “resolve” issue, the staff would not have leverage to actually require the applicant to change that plan prior to certification.

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Mr. Brewer said that there is a tree line along the boundary of this site, and the applicant had stated that there would be pedestrian pathways between this development and the future development to keep this area protected from traffic. Mr. Kahly replied affirmatively. Mr. Brewer then said that he would prefer to have trees behind his property versus a road.

Mr. Owens said that he believed that the staff and the applicant need to further discuss this request.

Action - A motion was made by Ms. Beatty, seconded by Ms. Roche-Phillips, to continue PLAN 2012-113P: TUSCANY, UNIT 9 to the December 13, 2012, meeting.

Discussion of Motion – Mr. Kahly said that Mr. Haymaker had indicated that he would be agreeable to make one connection into the future development. He said that there is another access off Patchen Wilkes Drive to the right of the trail that could serve as the connection, which seems to be what everyone is after. Mr. Owens said that three connections would be too many; but one connection would work, and pedestrian access would be great. Mr. Taylor said that the three accesses shown on the rendering were not meant to suggest actual pedestrian accesses. He then said that those three accesses are potential access locations. Mr. Brewer asked if the staff would be agreeable to one access connection. Mr. Taylor replied affirmatively, and said that the staff would also suggest denoting the timing of street connectivity to Battery Street. Mr. Owens said that this request can be hammered out with the staff before the December meeting. Mr. Haymaker said that he was agreeable, but wanted to point out that there is a smoke house and an older barn that they are trying to preserve. Mr. Owens suggested that the applicant work with the staff, and he believed that this plan could work.

The motion carried 7-2 (Cravens and Brewer opposed; Blanton and Mundy absent).

2. FINAL DEVELOPMENT PLANS

- a. DP 2012-83: LEXINGTON MEDICAL ARTS PROFESSIONAL, INC., LOT 3 (AMD) (12/3/12)* - located at 2368 Professional Heights Drive. (Council District 4) **(Wheat & Ladenburger)**

Note: The Planning Commission continued this item from their October 11, 2012, meeting. The purpose of this amendment is to delete office space and add an extended-stay hotel.

The Subdivision Committee Recommended: Postponement. There are remaining questions about storm water drainage improvements that may be needed on the northeast ½ of the subject property, due to the increase in impervious surfaces that are proposed.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
10. Denote construction access locations.
11. Remove sign from plan.
12. Remove hatching on building to improve legibility.
13. Complete existing access drive to Trader Joe's parking lot as per the approved development plan.
14. Relocate dumpster location to be further away from adjacent single family homes.
15. Denote Board of Adjustment approval of conditional use permit prior to plan certification.
16. Discuss stormwater detention concept and/or basin location on the northeast corner of the extended-stay hotel lot.

Staff Presentation – Mr. Taylor presented the final development plan for Lexington Medical Arts Professional, Inc., Lot 3, which is located at 2368 Professional Heights Drive. He directed the Commission's attention to the development plan rendering, and oriented them to the overall area and to the surrounding street system. He noted that the subject property is located at the corner of East Lowry Lane and Nicholasville Road. He explained the nearby uses and the location of the split zones, adding that the area toward Nicholasville Road is zoned B-1 and the remainder of the property is zoned P-1. He said that the plan does propose an extended-stay hotel, which would consist of a four-story building with 105 rooms and 128 associated parking spaces on the site.

Mr. Taylor said that the Planning Commission continued this item at their October 11th meeting to allow the Board of Adjustment to make their decision on the conditional use permit request for this property. On October 26th, the Board of Adjustment approved the conditional use permit for this extended-stay hotel. He said that, since the BOA's

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approval, the applicant submitted a revised plan to the staff addressing the conditions imposed by the Board of Adjustment. Mr. Taylor directed the Commission's attention to the staff handout that was previously distributed and briefly explained that conditions #1-8 are standard sign-off conditions from the different divisions of the LFUCG, and noted that many of the "clean-up" items had been addressed by the applicant's engineer. Mr. Taylor said that condition #9 refers to the stormwater basin that needs to be identified and located on the northeast corner of the lot. He then said that, according to the stormwater plan, a small basin may be required for this site; however, it is in the same location as the walking/exercise trail. A new condition #10 was added to resolve the potential conflict between the walking/exercise trail and the stormwater detention area, which would be approved by the Divisions of Engineering and Water Quality. He further explained the last two conditions and said that the storage building will need to be dimensioned on the plan (condition #11), as well as adding condition #6 from the BOA approval (condition #12). He then said that the applicant would need to denote on the plan that the open space and tree preservation areas will not be substantially altered by an amended final development plan without prior approval of the Board of Adjustment. Mr. Taylor said that there have been two changes since the first submission of this request. Those changes included the row of parking spaces along the residential side being removed for the walking/exercise trail, and the dumpster being relocated.

Mr. Taylor said that, based upon the recent submission, the staff is recommending approval of this plan, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
- ~~10. Denote construction access locations.~~
- ~~11. Remove sign from plan.~~
- ~~12. Remove hatching on building to improve legibility.~~
- ~~13. Complete existing access drive to Trader Joe's parking lot as per the approved development plan.~~
- ~~14. Relocate dumpster location to be further away from adjacent single family homes.~~
- ~~15. Denote Board of Adjustment approval of conditional use permit prior to plan certification.~~
10. ~~16. Discuss Identify the stormwater detention concept and/or basin location on the northeast corner of the extended-stay hotel lot.~~
11. ~~17. Resolve the walking track conflict with the stormwater detention area to the approval of Division(s) of Engineering and Water Quality.~~
12. ~~Dimension storage building.~~
13. Addition of condition #6 from BOA approval to denote: The open space and tree preservation areas will not be substantially altered by an amended final development plan without prior approval of the Board of Adjustment.

Planning Commission Questions – Ms. Roche-Phillips asked if there was issue between orientation of the building and the Bur Oak tree. Mr. Taylor said that there was no issue with the tree protection area at the rear of the property, adding that the orientation of the building did not impact the Bur Oak.

Mr. Owens asked if the Board of Adjustment had conditions associated with their approval. Mr. Taylor said that the applicant had added conditions to the plan concerning fencing, lights, trees and so forth; but the staff believed condition #6 was also important, which is the reason for condition #12 being added on the staff recommendation.

Representation – Chris Westover, attorney, along with Roger Ladenburger, Wheat & Ladenburger, Dave Leonard (Arborist), Jeff Steinem (agent) and Vince Severance (engineer) were present representing the applicant. She said that that there are two significant Bur Oak trees on site (to the rear) that will be preserved. She then said that they are planning to have a tree garden in the northeast quadrant, which would help with additional stormwater, as well as make this area more attractive.

Ms. Westover thanked the nearby neighborhood for their response, because it helped them make this a better plan for the area. She then said that the neighborhood association had requested that the BOA conditions be placed in the file for future reference for the staff. This would then ensure that there would be no mistake as to what the applicant had agreed to at the BOA hearing. With that being said, she noted that they are agreement with the staff's recommendations and requested approval for DP 2012-83.

Staff Comments - Mr. Taylor clarified that the BOA had approved 12 conditions for this use at their public hearing, and added that not all of those conditions are listed on the development plan. He then said that only the conditions that are development plan related would be listed.

Discussion - Mr. Owens asked if it would be appropriate to add language to condition #12 to denote all conditions approved by the Board of Adjustment. Mr. Taylor said that there is a note already on the plan that references the

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BOA approval, which includes the case number and the date of the hearing. He added that the list of conditions is a recorded document at the Fayette County Clerk's Office.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 9-0 (Blanton and Mundy absent) to approve DP 2012-83: LEXINGTON MEDICAL ARTS PROFESSIONAL, INC., LOT 3 (AMD), subject to the revised conditions as presented by the staff.

- b. DP 2012-97: CHESAPEAKE EQUINE (1/12/13)* - located at 1024 Greendale Road.
(Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire's approval of property access details and fire hydrant locations.
10. Division of Waste Management's approval of refuse collection.
11. Denote record plat designation Cabinet "N" Slide "326."
12. Addition of street and access easement cross-section.
13. Addition of conditional zoning restrictions from previous plan.
14. Denote access point on the other side of Greendale Road.
15. Dimension clubhouse building.
16. Adjust 20' setback on southern boundary to meet Article 9 requirements.
17. Delete proposed right-of-way for cul-de-sac into property or label as a private street.
18. Resolve access connection to Greendale Road.
19. Eliminate building envelope conflict with 100' KU transmission easement.
20. Delineate pond/detention basin limits on plan.
21. Review by Technical Committee prior to plan certification.

Staff Presentation – Ms. Gallt presented the final development plan for Chesapeake Equine, located at 1024 Greendale Road. She directed the Commission's attention to the rendering, and oriented them to the overall area and to the surrounding street system. She said that the subject property is adjacent to the railroad track to the east and noted that the future connection of Citation Boulevard would be to the north and would extend to connect to Greendale Road. She said that the timing of that connection is unknown at this time. She then said that the subject property is approximately 27 acres of land that is zoned R-3, and the applicant is proposing to develop townhomes and apartment buildings on the site.

Ms. Gallt directed the Commission's attention to the agenda and briefly explained that conditions #1-10 are standard sign-off conditions from the different divisions of the LFUCG; and conditions #11-20 are "clean-up" items that would need to be addressed by the applicant's engineer. She said that there is an existing development opposite this proposal on Greendale Road, and the applicant needs to denote the location of the access point on Greendale Road (condition #14). She then said that since this a Group Residential Project, the applicant had noted dedicated right-of-way on the cul-de-sac into the property, but the staff prefers that this is designated as a private street or an access easement (condition #17). She added that there is a 100' KU Transmission easement along the railroad, and the applicant needs to eliminate the conflict with the building envelope in this area (condition #19). She said that the pond/detention basin limits need to be delineated on the plan to show how large it would be on the site (condition #20). Ms. Gallt said that this item was submitted as a late file; therefore, condition #21 requires the applicant to show this proposal to the Technical Committee. She then said that the staff is recommending approval of the applicant's request.

Planning Commission Questions – Mr. Penn said that he did not understand why this item was placed on the Consent Agenda, considering there are 21 conditions, it still needs to be reviewed by the Technical Committee, and there is an access and right-of-way dedication problem. Ms. Roche-Phillips clarified that this item was submitted as a late filed plan, which is not reviewed by the Technical Committee. Ms. Gallt said that the late filing deadline is the same day as the Technical Committee meeting. Ms. Roche-Phillips said that if a plan is filed as a late filing, and it is then reviewed by the Technical Committee and they do not agree with the applicant's proposal, then that request would need to come back to the Commission. She said that it is essentially moot point to bring such a request to Technical Committee after the Planning Commission. She then said that it seems to be "the cart before the horse." Ms. Gallt said that if the Subdivision Committee recommends approval and if there are no discussion items listed in the recommendation that item is eligible for the Consent Agenda. She then said that if an applicant misses the initial

* - Denotes date by which Commission must either approve or disapprove request.

filing deadline they will have the opportunity to submit their application as a late file, at which time the Technical Committee would give the final comments. Mr. Penn asked what happens to the plan if the Technical Committee finds an issue with it. Ms. Gallt said that the issue would need to be resolved before the plan is certified. Mr. Penn said that this is not a good process and the staff had raised three issues concerning this plan that have not been sufficiently addressed. He said he understands this item was filed late, but that is not the Commission's fault. He said that he does not understand how this item was placed on the Consent Agenda, and the Commission should stick to the process to allow the Technical Committee time to review this proposal and make a recommendation of this request. Mr. Sallee said that the process for late plans does allow changes to the plan to be made that would qualify as a 'minor amendment.' He then said that all minor amendments do not allow additional square footage, or allow any access point to shift more than 25' in either direction. He added that a minor amendment would also not allow any parking surpluses to be diminished.

Mr. Penn said that the Commission seldom sees a plan with 21 conditions listed on the Consent Agenda. He asked what would happen if there was an issue with the connection to Greendale Road if the Commission were to approve this request. Mr. Sallee said that a minor amendment would allow the connection to be shifted up to 25 feet; anything other than that would require that it come back to the Commission as a continued discussion. Mr. Owens said that the Subdivision Committee had reviewed this request; and, at that time, he believed the applicant would be submitting a revised plan addressing these concerns.

Representation – Rena Wiseman, attorney, along with Rory Kahly, EA Partners, was present representing Ball Homes. She said that as part of the rules and regulations set forth by the Commission, "late filing" is permitted. She then said that when a plan is filed as a late filing, triple filing fees are associated with that request. She then said that they filed this request as a late file to have the Commission consider it before the end of 2012. She added that, even though this request wasn't on the Technical Committee Review agenda, they did show their request and their intentions to the Technical Committee. Ms. Wiseman understands the Commission's concerns with the Consent Agenda, but they are presenting a plan with conditions that must be satisfied before the plan is certified. She said that these conditions listed on a plan are the same sign-offs from the various divisions that are present at the Technical Committee Review Meeting. She then said that this request will be presented to the Technical Committee, and there are no issues to resolve or discuss - only clean-up items.

Ms. Wiseman said that they now have the Subdivision Committee recommendations, and conditions #1-10 are standard sign-off conditions from the different divisions of the LFUCG; and conditions #11-20 are "clean-up" items that would need to be addressed prior to the plan being certified. She then said that they now have the development plan; and they can clarify the access to Greendale Road, which is related to conditions #14 and #18. She added that, as for condition #17, the recommendation of the Subdivision Committee reads either delete the proposed right-of-way or label it as a private street, but they had proposed to the Subdivision Committee their intention of making the entrance a private street. Ms. Wiseman said that the conditions listed would be satisfied, and they are requesting the Commission to approve this request. She then said that this is no different from any other request that has come before the Commission. The Technical Committee will still review this plan.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Comments – Mr. Cravens said that the Subdivision Committee recommended approval of this request, which placed it on the Consent Agenda. He then said that Ms. Wiseman had given their justification as to why this was filed as a late plan, and he sees no reason to go against the Commission's procedure. He added that if the Commission does not want any more late plans filed then the Ordinance needs to be changed. Mr. Cravens said that the Technical Committee will review this request.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, to approve DP 2012-97: CHESAPEAKE EQUINE, subject to the conditions as presented by the staff.

Commission Discussion – Mr. Penn said that there is no reason for a development plan to have 21 conditions. He then said that this request does have only one "resolve" issue listed on the recommendation, which is condition #18. He added that the planning Commission should not be reviewing any plans that have not been reviewed by the Technical Committee.

Ms. Beatty supported Mr. Penn's comments. She said that she sits on the Subdivision Committee, and they have discussed the number of conditions on a request, as well as voicing a concern with late plans being filed. She also understands that the Subdivision Committee did forward this recommendation of approval to the Planning Commission, as stated by Ms. Wiseman.

Mr. Wilson said that he agrees with the comments that were made, in principle; but his concern is whether or not the quality of the plan is impacted. He then said that the excessive number of conditions does not bother him, as much as the quality of the issues listed. He added that there could only be two conditions listed on the recommendation; and if those two conditions are key issues, then he would want that request taken off the Consent Agenda to be presented. Ms. Beatty agreed that it is the quality of the plan that is important.

Mr. Owens said that at the Subdivision Committee meeting, the Committee felt this was an approvable plan to move forward with the understanding that there would be a revision submitted to the staff. He asked the date of the next Technical Committee meeting. Ms. Galt said that the next meeting would be November 28th. Mr. Owens said that if the Commission were to postpone this request to allow the Technical Committee to make their recommendation, there would be time for the Commission to review this request in December.

The motion was carried 6-3 (Owens, Penn and Plumlee opposed; Blanton and Mundy absent).

Director's Comments - Mr. King pointed out that this plan had met every stated criterion of the Commission to be heard by this Board and to qualify for the Consent Agenda. He then said that the Commission has had these conversations before, and he believed it would be a good idea to reopen those discussions at the November 29th Work Session. He added that the staff, the applicant and the Commission would be involved so that everyone knows what the rules are; and at that time the Commission can then decide if the criterion needs to be amended. Mr. Owens referred to legal counsel and asked if everyone could respond via email as to whether or not they wish to discuss this issue. Mr. King said that that would be fine as long as the Work Session agenda is published 24 hours before the meeting.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Ms. Beatty, and carried 9-0 (Blanton and Mundy absent) to approve the release and call of bonds as detailed in the memorandum dated November 8, 2012, from Ron St. Clair, Division of Engineering.

- VI. **COMMISSION ITEM** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- A. **PFR 2012-3: FAYETTE COUNTY PUBLIC SCHOOLS - BRYAN STATION HIGH SCHOOL BAND TOWER** – located at 1866 Edgeworth Drive.

STAFF RECOMMENDATION: Approval, as requested, with the following recommendation:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction and prior to use of the band tower.

Staff Presentation – Ms. Rackers said that this is a request by Fayette County Public Schools to review a proposal for a permanent band tower for Bryan Station High School. She then said that the Bryan Station High School campus is located at 1866 Edgeworth Drive, which is between Old Paris Road and Bryan Station Road. She directed the Commission's attention to a rendering of the zone map, and oriented them to the overall area and to the surrounding street system, adding that the surrounding properties consist of single family residential uses.

Ms. Rackers said that Bryan Station High School is on approximately 31 acres of land, and the existing structures on site total 294,142 square feet. She then said that FCPS has proposed a 45 square-foot band tower, 35 feet in height, with a 121 square-foot concrete base to be located between the practice area and the main parking lot near Edgeworth Drive. She directed the Commission's attention to the site plan, and noted that the band tower can be accessed from Edgeworth Drive and is several feet from any other school structures. She added that this proposal had been reviewed by Building Inspection's, Commercial Plan Review, and they found no issues with the placement of the tower.

Ms. Rackers said that the band tower would only be used by two band directors, and up to 4 Bryan Station High School staff members. She then said that the band tower would be locked at all times when not in use, and no students would have access to the tower. She added that, on occasion, a videographer would have access to the tower to record rehearsals, but only if and when one of the two band directors is present. She said that the band tower would be used only during marching band season, mid-July to early November each year, Monday through Saturday (five or six times per week, for three to six hours at a time), between the hours of 8:00 a.m. and 7:00 p.m.

Ms. Rackers said that the staff had reviewed the 2007 Comprehensive Plan, as well as the Themes, Goals and Objectives of the 2012 Comprehensive Plan, in order to comply with the requirements of KRS 100.324(4), and there is nothing in either of the two in opposition to this proposal. She explained that the text of the Land Use Element, as well as the Community Facilities chapter, does support this project, as do several 2007 Goals and Objectives. She noted that the Goals and Objectives for the 2012 Comprehensive Plan have been greatly simplified in order to allow a more general interpretation as far as development goes in Fayette County. In the staff's review, there is only one Objective of the 2012 Plan that might relate to the proposed band tower and that is Objective d. of Theme F, Goal 1, which reads: "Collaborate with other agencies in Lexington-Fayette County to meet local standards in order to achieve compatible developments and accomplish the community's vision as articulated in Destination 2040." She said that, as the Commission may recall with the past PFR requests, Fayette County Public Schools wants to become a world-class school system by 2020, and this is referenced in the text of the 2007 Comprehensive Plan. Ms. Rackers said that, to help them achieve their goal, they have continued to improve the existing Fayette County Public Schools and they are planning to build a new high school, as well as 3 elementary or middle schools.

Ms. Rackers said that Fayette County Public Schools is exempt from Zoning Ordinance requirements; however, they are not exempt from compliance with the State Building Code. She then said that, in the interest of public health and safety, the staff recommends that the construction of the band tower be subject to the same review by the Division of Building Inspection that any other building or structure for human occupancy would be subject to. She added that the staff does recommend approval of this request, subject to the following recommendation:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction and prior to use of the band tower.

Ms. Rackers noted that Andrew Moore, EOP Architects, was present representing Fayette County Public Schools, should the Commission have any questions.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Blanton and Mundy absent) to approve PFR 2012-3: FAYETTE COUNTY PUBLIC SCHOOLS - BRYAN STATION HIGH SCHOOL BAND TOWER, as presented by the staff.

VII. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

IX. NEXT MEETING DATES

Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	November 15, 2012
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	November 29, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 28, 2012
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 6, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	December 6, 2012
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 13, 2012

X. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 3:40 PM.

Mike Owens, Chair

Lynn Roche-Phillips, Secretary